

EXHIBIT 12

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Control Nos.: **90/ 007,542**
90/ 007,859

Group Art Unit: 3991

Confirmation Nos.: 7585 ('542)
6447 ('859)

Examiner: P. Ponnaluri

Filed: 13 May 2005 ('542)
23 December 2005 ('859)

Patent Owner: Genentech, Inc. and
City of Hope

For: Merged Reexaminations of U.S. Patent No. 6,331,415 (Cabilly *et al.*)

Mail Stop **Ex Parte Reexam**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTICE OF APPEAL UNDER 37 C.F.R. § 41.31(a)

Sir:

Owners hereby appeal to the Board of Patent Appeals and Interferences from the decision of the Primary Examiner mailed 25 February 2008 finally rejecting claims 1-36.

This notice is timely. Most recently, in the advisory action mailed 19 July 2008, the period for response was extended to run to 6 months from the date of the final Office action (*i.e.*, to 25 August 2008). *See also* decision on petition mailed 7 July 2008 (extension to 28 July 2008); decision on petition mailed 19 March 2008 (extension to 6 June 2008; further extended per the Office's standing policy, M.P.E.P. § 2265, to 7 July 2008 (the first business day following Sunday 6 July) when Owners filed a timely first reply); final Office action mailed 25 February 2008 (setting initial two-month period for response).

Owners request that the Director charge the appeal fee of **\$510** (§ 41.20(b)(1)), as well as any other fees required to render this notice timely or proper, to our **Deposit Account no. 18-1260**.

Respectfully submitted,

/David L. Fitzgerald/

David L. Fitzgerald, Reg. No. 47,347
Attorney of Record

22 August 2008

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that copies of this paper are being served by first class mail delivery on the date shown below to each of the following:

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22 August 2008

DATE